IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl.Rev. No.1039 of 2006

Date of Decision: 11.7.2007

Zile Singh

....Petitioner.

Versus

State of Haryana.

...Respondent.

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Present:- Mr.Sanjay Vashisth, Advocate
for the petitioner.
Mr.Narinder Sura, AAG Haryana.

S.S.SARON, J.(ORAL)

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This revision petition has been filed against the order dated 8.5.2006 passed by the learned Additional Sessions Judge, (Fast Track Court), Bhiwani, whereby the application of the petitioner for leading additional evidence has been declined.

The petitioner was working as a Conductor with the Haryana Roadways, Bhiwani. On 29.8.1991 he was on duty in the bus and carrying passengers from Bhiwani to Dadri/Alwar. On the way the bus was checked at village Haluwas by the Inspectors of the Roadways Department. The petitioner, it was found, had given a ticket bearing No. 54601 of Rs.1.50 to a passenger. The face value of which was changed from Rs.1.50 to Rs.4.50. From the possession of the petitioner two bundles of tickets numbering from 54601 to 54700 and 54701 to 54800 were recovered. On account of the change of the face value of the tickets the petitioner was tried and convicted by the learned trial Court vide order dated 30.1.2002. Against the

said order, the petitioner has filed an appeal before the learned Sessions Judge, Bhiwani, which is pending before the learned Additional Sessions Judge, (Fast Track Court), Bhiwani. Along with the appeal an application under Section 391 Cr.P.C. was filed for grant of permission to lead additional evidence i.e. way bill, photocopy of which has been attached as Annexure P1, dated 29.8.1991 to the present petition. The learned Additional Sessions Judge, (Fast Track Court) Bhiwani, vide his impugned order dated 8.5.2006 has declined the application which is assailed by the petitioner.

Learned counsel for the petitioner submits that the petitioner had obtained photocopy of the way bill dated 29.8.1991 in which there is no noting regarding cheating or converting the tickets from Rs.1.50 to Rs.4.50. However, the petitioner has been convicted on the basis of the documents Ex.PW2/A which is attached as Annexure P2. It is submitted that the documents Ex.PW2/A (Annexure P2) mentions the entry of forgery and cheating of the change of value of tickets from Serial Nos. 54601 to 54700 and 54701 to 54800 whereas nothing was mentioned in the original way bill (Annexure P1). It is submitted that the original way bill (Annexure P1) was not produced on record by the prosecution and therefore, the same is liable to be allowed to be produced in defence.

In response learned counsel for the State has submitted that the petition has been filed only to delay the matter. The case is of the year 1992 and in case the petitioner wanted to produce the way bill that he now wants to produce he could have done so before the trial court in his defence. In any case, it is submitted that the way bill (Annexure P2) was taken in

possession from the petitioner and in lieu of that the way bill (Annexure P1) was given to him. In the way bill (Annexure P1), it has been mentioned by the checker that the tickets 54601 to 54700 and 54701 to 54800 were with them. It is submitted that the petitioner was having in his possession both the way bills (Annexure P1 and Annexure P2). However, the way bill Annexure P2 was taken in possession and the receipt of taking the tickets was recorded on the said way bill (Annexure P1). Thereafter, on the bill (Annexure P2) that was taken in possession, an endorsement was made that the petitioner had committed forgery. Therefore, it is submitted that the petitioner cannot derive any advantage of the way bill (Annexure P1) which was left with him and after the journey was deposited by him with the Roadways Authorities.

I have given my thoughtful consideration to the matter. The fact as to what benefit the petitioner may get of the way bill (Annexure P1), the production of which is sought, by way of additional evidence, is to be considered and gone into during the trial of the case after the same has been produced on record. Prima-facie it appears that the way bill (Annexure P1) would advance the cause of justice as regards the matter in issue between the parties. The production of way bill (Annexure P1) appears to be essential for the just decision of the case. The petitioner is facing prosecution of selling bus passenger tickets of the face value of Rs.1.50 by changing them to that of Rs.4.50. The figure `1' was changed to `4' with a black pen. Therefore what ever advantage that can be got by the petitioner with the production of the way bill (Annexure P1) which is an official document of the Haryana Roadways, the same is liable to be allowed. This

is more so for the reason that no prejudice would be caused to the State in case the way bill (Annexure P1) is allowed to be produced and tendered in evidence by way of additional evidence.

Consequently, the criminal revision petition is allowed. The petitioner is allowed to produce on record by way of evidence the way bill (Annexure P1). However, nothing stated hereinabove shall be construed as an expression on the merits of the case that is pending between the parties.

(S.S.SARON)
JUDGE

July 11, 2007.
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